

REMARKS

In response to the Office Action mailed September 5, 2002, Applicants respectfully request reconsideration. To further the prosecution of this application, the rejections set forth in the Office Action are addressed below and amendments have been made in the claims. The claims as presented are believed to be in allowable condition.

Applicants note that claim 6 has been amended to correct a minor informality noted during the preparation of this Amendment. In particular, claim 6 has been amended to provide antecedent basis for the "plurality of host computers" recited therein.

I. Rejection of Claims Under 35 U.S.C. §102(e)

In ¶5 of the Office Action, claims 1-4, 6-8, 10-12, 14 and 16-24 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,751,997 (Kullick). Independent claim 19 has been amended to further clarify the term "primary storage element." As described at page 20, a primary storage element serves as the main memory for a host computer coupled thereto. In light of this further clarification of claim 19, claims 19-24 are believed to be allowable over Kullick. Applicants respectfully traverse the rejection of claims 1-4, 6-8, 10-12, 14, and 16-18.

Kullick is directed to a method and apparatus for storing archival data from multiple computers on centralized mass storage devices in a networked environment (Abstract). The communication network 12, which may be a local-area network or high-speed network such as AppleTalk, Ethernet or Token Ring, connects at least one primary storage device 14, at least one secondary storage device 16, and at least one computer device 18 (Col. 4, lines 45-53; Fig. 2a). Repeated backup operations are performed for disks 21 on the computer devices 18 on the network (Abstract). First, data is transferred from a disk 21 to the secondary storage device 16 during a backup initialization (Abstract). Next, the disk 21 is incrementally backed up to a primary storage device 14, which is backed up to the secondary storage device 16 when a predetermined time or specified event occurs (Abstract).

a. Claim 1

Claim 1 recites a computer system that includes, *inter alia*, a switched network coupled to a plurality of primary storage devices and to a secondary storage device to permit one of the primary storage devices to access the secondary storage device through the switched network. Kullick does not teach or suggest a switched network. Rather, Kullick merely discloses a communication network 12, which may be a local-area network or high-speed network such as AppleTalk, Ethernet or Token Ring. No network switches are disclosed or suggested, and network switches are not illustrated in Figure 1.

Thus, nothing in Kullick discloses a switched network coupled to a plurality of primary storage devices and to a secondary storage device to permit one of the primary storage devices to access the secondary storage device through the switched network. Accordingly, Kullick cannot anticipate claim 1. Applicants respectfully request that the rejection of claim 1 under 35 U.S.C. §102(e) be withdrawn.

Claims 2-4, 6-8, and 10 depend from claim 1, and are believed to be allowable for at least the same reasons.

b. Claim 11

Claim 11 recites a computer system that includes, *inter alia*, a heterogeneous plurality of host computers. Kullick does not teach or suggest heterogeneous host computers. Indeed, the Office Action does not allege any teaching of heterogeneous host computers in Kullick. Rather, Kullick discloses and illustrates homogeneous computer devices 18.

Thus, nothing in Kullick discloses a heterogeneous plurality of host computers. Accordingly, Kullick cannot anticipate claim 11. Applicants respectfully request that the rejection of claim 11 under 35 U.S.C. §102(e) be withdrawn.

Claims 12, 14, and 16-18 depend from claim 11, and are believed to be allowable for at least the same reasons.

c. Claim 19

Claim 19 recites a method of transferring data from at least one of a plurality of primary storage elements to a secondary storage element. The method includes a step of automatically establishing a first connection through a network from a first one of the primary storage elements, which serves as primary storage for a CPU of a host computer coupled thereto, to the secondary storage element to transfer a first logical object to the secondary storage element. Kullick does not teach or suggest the recited method of transferring data.

The “primary storage devices 14” in Kullick do not serve as primary storage for each of the computer devices 18, but rather as backup storage. The disks 21 of computer devices 18 serve as the primary storage for the CPUs 20 of the computer devices 18 (Abstract; Fig. 2a). Thus, nothing in Kullick discloses a step of automatically establishing a first connection through a network from a first one of primary storage elements, which serves as primary storage for a CPU of a host computer coupled thereto, to a secondary storage element to transfer a first logical object to the secondary storage element. Accordingly, Kullick cannot anticipate claim 19. Applicants respectfully request that the rejection of claim 19 under 35 U.S.C. §102(e) be withdrawn.

Claims 20-24 depend from claim 19, and are believed to be allowable for at least the same reasons.

II. Rejection of Claims Under 35 U.S.C. §103(a)

In ¶7 of the Office Action, claims 5, 15, and 25 are rejected under 35 U.S.C. §103(a) as being obvious over Kullick. In ¶8 of the Office Action, claims 9 and 13 are rejected under 35 U.S.C. §103(a) as being obvious over Kullick in view of U.S. Patent No. 5,535,381 (Kopper).

Claims 5 and 9, 13 and 15, and 25 depend from independent claims 1, 11, and 19, respectively, and are believed to be allowable for at least the same reasons as the independent claims. Accordingly, for the sake of brevity, Applicants believe that it is unnecessary at this time to individually argue the allowability of claims 5, 9, 13, 15, and 25, and reserve the right to specifically address the patentability these claims in the future, if deemed necessary.

III. New Claims

New claims 26-28 have been added to further define Applicants' contribution to the art. Claims 26, 27, and 28 depend from claims 1, 11, and 19, respectively, and are believed to be allowable for at least the same reasons as the independent claims. Each of these claims is believed to further distinguish over Kullick in that in Kullick, the backing up of data from disks 21 of computer devices 18 to the primary storage devices 14 involves the computer devices 18 (See e.g., Col. 7 line 55 – Col. 8, line 46 and Fig. 4B).

Conclusion

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicants' attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

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**MARKED UP CLAIMS**

6. (Amended) The computer system of claim 1, wherein the computer system includes a plurality of host computers, and wherein the plurality of host computers is heterogeneous.

19. (Four Times Amended) A method of transferring data from at least one of a plurality of primary storage elements to a secondary storage element, the method comprising steps of:

automatically establishing a first connection through a network from a first one of the primary storage elements, which serves as the primary storage for a CPU of a host computer coupled thereto, to the secondary storage element to transfer a first logical object to the secondary storage element; and

transferring the first logical object from the first one of the primary storage elements directly to the secondary storage element over the first connection.